

City of Bloomington, Minnesota
DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE: 7849AB-15
APPLICANT: Link Wilson
LOCATION: 9040 West Bush Lake Road
REQUESTS: 1) Variance to reduce the side yard setback from 10 feet to 9.2 feet for a second level addition;
2) Variance to increase the allowable height from 30 feet to 32.5 feet

FINDINGS OF THE HEARING EXAMINER:

Variance Findings – Section 2.98.01 (b)(2)(A-C)

A) That the variance is in harmony with the general purposes and intent of the ordinance;

- The requested variances to use the existing foundation constructed in 1958 located 9.2 feet from the property line and to increase the permitted height from 30 feet to 32.5 feet are not in conflict with the general purpose and intent of the City Code to promote compatibility in neighborhoods. The requested variances are nominal and are not anticipated to negatively impact abutting properties. The variances are in harmony with the general purposes and intent of the ordinance.

B) That the variance is consistent with the comprehensive plan;

- The variances are consistent with the Comprehensive Plan's designation of Low Density Residential for the property and achieves the Comprehensive Plan goal of upgrading the City's housing stock.

C) When the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

- The applicant does have a practical difficulty in complying with the zoning ordinance. Without the granting of the variances, the existing foundation could not be reused and would need to be excavated and reconstructed less than a foot to the east. Further, the property has significant grade, which slopes southwest to northeast toward West Bush Lake Road. The property's slope makes accommodating a two-story, flat roofed house very challenging.

Practical difficulties as used in connection with the granting of the variance, means that:

- (i) **The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;**

- Reducing the required side yard setback from 10 feet to 9.2 feet and increasing the height from 30 feet to 32.5 feet are reasonable requests and would not be permitted without the granting of the variances.

(ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

- The applicant did not create the house's non-conforming location relative to the west property line, nor did the applicant choose the house's placement on sloping terrain making it difficult to accommodate a two-story, flat roofed house.


(iii) The variance if granted will not alter the essential character of the locality.

- The reduced side yard setback and increased height are compatible with nearby homes and are not anticipated to alter the character of the neighborhood.

DECISION OF THE HEARING EXAMINER:

In Case 7849AB-15, the Hearing Examiner recommends City Council approval of a variance to reduce the side yard setback from 10 feet to 9.2 feet for a second level addition and a variance to increase the allowable height from 30 feet to 32.5 feet at 9040 West Bush Lake Road subject to the following conditions:

- 1) The side setback variance is only applicable to the side setback encroachments shown on the plans in Case File 7849AB-15.
- 2) The driveway must maintain at least a five foot setback from the property line and may not encroach into any easement of record without an encroachment agreement.
- 3) The circular gravel driveway extending into 9044 West Bush Lake Road must be removed and restored to turf.



Hearing Examiner
March 31, 2015